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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,726	01/11/2001	Gary H. Fenton	33038	8445

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CLEVELAND, OH 44114-1484

EXAMINER
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KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/758,726

Applicant(s)

FENTON, GARY H.

Examiner

Michele Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/5/02.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 1 – 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

Applicant's election of claims 11 – 20 in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both belt mounting loops and mating loops. A proposed drawing correction or corrected drawings are required in

reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "34" has been used to designate both an adhesive hydrocolloid skin barrier disk and an adhesive skin barrier disc. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 15 – 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nowak et al. (US 4,834,731).

With respect to claim 11, Nowak et al. (hereinafter "Nowak") discloses a mounting disc for an ostomy pouch comprising a flexible plastic disc having a convex central body portion (26) and a surrounding annular rim (figure 3), a first foam disc having first and second faces (25) and having pressure-sensitive adhesive on each of said faces (col. 5, lines 15 – 24), said first foam disc having an outer diameter substantially corresponding to the outer diameter of said flexible plastic disc (figures 2 – 3), the second face of said first foam disc being adhered to the convex central body

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portion and the surrounding annular rim of the plastic disc (figures 2 – 3), a second foam disc having first and second faces and having pressure-sensitive adhesive on said first face of said second foam disc (18), said second foam disc having an outer diameter greater than the outer diameter of the flexible plastic disc (figure 7), the second face of said second foam disc being adhered to the first face of said first disc (col. 4, lines 25 – 41), an adhesive skin barrier disc having an outer diameter substantially corresponding to the outer diameter of said second foam disc (17), said skin barrier disc being adhered to the first face of the second foam disc as set forth in figure 7.

With reference to claim 15, Nowak discloses a mounting disc including a removable protective film covering another face of the skin barrier disc (35) as set forth in figure 7.

With reference to claim 16, Nowak discloses an ostomy appliance having a mounting disc adapted to the peristomal skin surfaces of an ostomate comprising a mounting disc and an ostomy pouch, said ostomy pouch comprising a flexible plastic disc having a convex central body portion (26) and a surrounding annular rim (figure 3), a first foam disc having first and second faces (25) and having pressure-sensitive adhesive on each of said faces (col. 5, lines 15 – 24), said first foam disc having an outer diameter substantially corresponding to the outer diameter of said flexible plastic disc (figures 2 – 3), the second face of said first foam disc being adhered to the convex central body portion and the surrounding annular rim of the plastic disc (figures 2 – 3), a second foam disc having first and second faces and having pressure-sensitive adhesive on said first face of said second foam disc (18), said second foam disc having an outer

diameter greater than the outer diameter of the flexible plastic disc (figure 7), the second face of said second foam disc being adhered to the first face of said first disc (col. 4, lines 25 – 41), an adhesive skin barrier disc having an outer diameter substantially corresponding to the outer diameter of said second foam disc (17), said skin barrier disc being adhered to the first face of said second foam disc (figure 7), and said ostomy pouch comprising proximal and distal sheets of plastic film sealed at their peripheries, said proximal sheet having a stoma inlet portal therein, said inlet portal having a diameter substantially corresponding to an inside diameter of the annular rim of said flexible plastic disc, said annular rim being sealed to said proximal sheet about a zone surrounding said portal as set forth in figures 4 – 5.

With reference to claim 20, Nowak discloses a mounting disc including a removable protective film covering another face of the skin barrier disc (35) as set forth in figure 7.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 – 14 and 17 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowak et al. as applied to claims 11, 15 – 16 and 20 above, and further in view of Leise, Jr. et al. (US 5,618,276).

The difference between Nowak and claims 12 and 17 is the provision that the mounting disc include diametrically opposed and radially extending mounting loops at a periphery of the flexible plastic disc.

Leise, Jr. et al. (hereinafter "Leise") teaches a mounting disc that includes diametrically opposed and radially extending mounting loops at a periphery of the flexible plastic disc as set forth in figure 1.

It would have been obvious to one of ordinary skill in the art to modify the mounting disc of Nowak to provide diametrically opposed and radially extending mounting loops at a periphery of the flexible plastic disc because these mounting loops provide opening for receiving the connectors of a conventional support belt or strap as taught by Leise in col. 5, lines 3 – 18.

As to claims 13 – 14 and 18 – 19, absence of a critical teaching and/or unexpected result, the examiner contends that the claimed limitation is an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

*Michele Kidwell*

Michele Kidwell  
April 29, 2003



WEILUN LO  
SUPERVISORY PATENT EXAMINER  
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